

## REMARKS

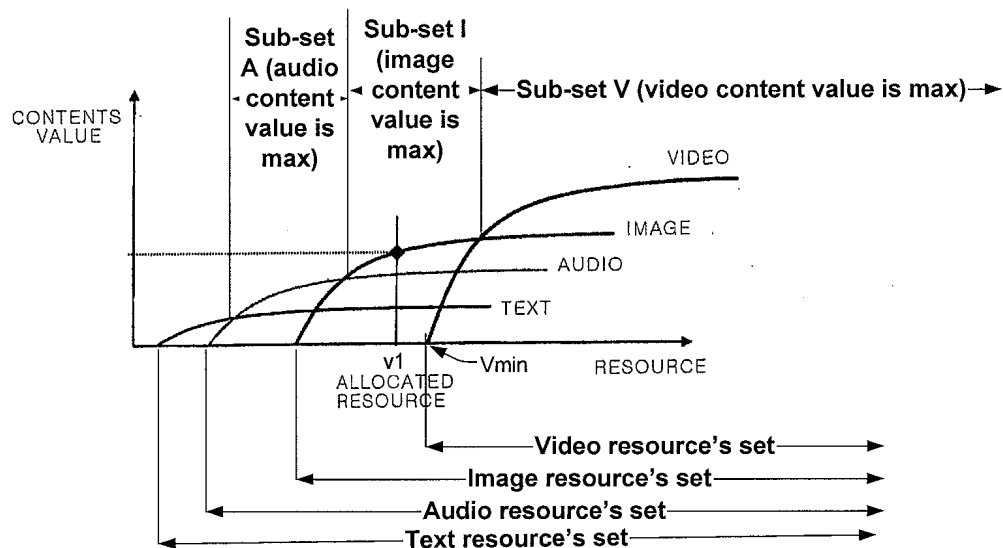
1. The undersigned thanks the examiner Henry and his supervisor examiner Mr. Seruq Hamza for the telephone interview conducted 14 January 2009. The interview summary is provided below. No agreement was reached.

2. Claims 9 and 11 were objected to for depending from non-existent claims. Claims 9 and 11 are amended to depend from existent claims.

3. Claims 1-13 were rejected under 35 U.S.C. 112 first and second paragraphs for reciting the terms “range” and “sub-range”. The office action notes that these terms are not found in the specification and are unclear.

According to MPEP 2173.02, “a claim term that is not used or defined in the specification is not indefinite if the meaning of the claim term is discernible”.

In this amendment, the terms “range” and “sub-range” are replaced with “set” and “sub-set” respectively, and are illustrated in the following marked-up copy of the applicant’s Fig. 2:



Claim 12 reads on Fig. 2 as follows. “Modalities” read on TEXT, AUDIO, IMAGE, and VIDEO. For each modality, a “content value specification” reads on a content value curve in Fig. 2. Each content value curve specifies a CONTENTS VALUE (the vertical axis) for each RESOURCE value (horizontal axis) in an associated set of resource values. For example, a RESOURCE value can be bandwidth or memory size available for transmitting or displaying some content to a terminal. In Fig. 2, if the content is video (moving picture) and the memory size is above some value  $V_{min}$  (see diagram above), then the content can be transmitted as VIDEO. The greater the memory size, the greater the content value (the curve increases). This may indicate, for example, that the video can be shown with less delay or greater resolution if the memory size is greater. The content value curve can be specified by the provider as described in the specification page 10 lines 5-8.

The content value curve for the VIDEO modality is defined for the set of resource values greater than  $V_{min}$  ( $RESOURCE > V_{min}$ ).

Similarly, every other content value curve in Fig. 2 is defined for some set of resource values.

Claim 12 recites that the sets associated with different modalities overlap. This is clearly true in Fig. 2.

Claim 12 recites in paragraph (2) a resource value  $v_1$  which belongs to at least two of the sets. In Fig. 2, a resource value marked as  $v_1$  belongs to at least two of the sets, i.e. to the sets for TEXT, AUDIO, and IMAGE (still image). The value  $v_1$  does not belong to the VIDEO set. This may mean for example that the memory size  $v_1$  is insufficient to display the video. The memory size  $v_1$  may be sufficient to display some or all still images from the video (IMAGE modality) without meeting the timing constraints or some other constraints for the motion picture display, or to display the audio portion of the video (AUDIO modality), or to display some text description of the video (TEXT modality).

Claim 13 recites also “sub-sets”, and this concept is illustrated in the above diagram. Claim 13 recites that “for each subset, one of the content value specifications provides a maximum content value ... in the sub-set”. In the above diagram, in the sub-set marked as “Sub-set V”, the VIDEO content value curve is maximum compared to all the other curves.

Thus, if the RESOURCE value is in the sub-set V, then the VIDEO modality provides the maximum content value. In “Sub-set I”, the IMAGE curve is maximum. In “Sub-set A”, the AUDIO curve is maximum. This sub-sets can be used to form the final content modality function of Fig. 3. This function can be used to determine a desired modality for each resource value (given a resource value, the desired modality can be the one providing the maximum content value; see page 11 equation (1)).

Claims 12 and 13 are not limited to the embodiments discussed herein.

The section 112 rejection was discussed at the interview, the examiners stating that the term “range” should be accompanied by a recitation of lower and upper bounds (e.g. a range from something to something). The undersigned pointed out that a range (or set) could be unlimited (e.g. the range of the VIDEO resource values may include all the memory sizes above  $V_{min}$ ). Also, a range could be multidimensional as explained in the specification page 12 line 19, e.g. the set of resource values may include pairs of a memory size and a bandwidth.

Of note, MPEP 2173.04 states that breadth is not indefiniteness.

Withdrawal of the rejection is respectfully requested.

4. Claims 1-2 and 7-13 were rejected under 35 U.S.C. 103(a) over Nahi et al. (US 6,084,584) in view of Tso et al. (US 6,421,733 B1). Claims 3-6 were rejected over Nahi in view of Tso and “Adapting Multimedia Internet Content for Universal Access” (“AMICUA”).

At the interview, the examiners indicated that the terms “range” and “sub-range” had not been accorded much weight during examination as these terms had been considered indefinite.

The undersigned respectfully urges the examiners to consider the terms “set” and “sub-set”, and in particular, with respect to paragraph (1) of each of claims 12 and 13, the recitation that “the sets associated with at least two of the modalities **overlap**”. For example, in the embodiment illustrated in the above diagram, the sets associated with any two of the modalities overlap. The resource value  $v_1$  is in the overlap area for three of the modalities (TEXT, AUDIO and IMAGE).

As discussed in the REMARKS section of the amendment filed May 16, 2008, at page 7, AMICUA page 20 describes a multimedia item associated with two modalities (image and text). The modalities are associated with resource values of a resource designated as “resource in bits (payload)”. The resource values of different modalities do not overlap however. E.g. for image, the possible resource values are 34 KB to 0.6 KB. For text, the possible resource value is 0.01 KB. There is no overlap. AMICUA neither addresses nor provides a solution to the problem of choosing a modality for overlapping sets of resource values.

Tso and Nahi are no more pertinent to this problem than AMICUA.

5. The remaining pending claims each depend from claim 12 or 13.

6. New claims 14-19 are supported by the original disclosure as follows. Claim 14 is supported by page 11 lines 2-19. The “preliminary content specification” of claim 14 reads on  $VM_{ij}$ , and the scale factors on  $W_{ij}$ .

Claim 15 is supported by equation (1) on page 11 (the “greatest content value” in claim 15 corresponds to max in equation (1)).

In claim 16, the “boundary resource values” correspond to the boundaries of sub-sets V, I and A in the diagram above.

Claim 17 is supported by the same passages as claim 14.

Claims 18 and 19 are supported by equation (2) in page 12, showing that each  $VM_{ij}$  can be obtained from multiple quality curves  $VM_{ij}^k$  scaled by values  $z_k$ .

7. If a fee is required for this submission, please charge the fee or any underpayment thereof, or credit any overpayment, to deposit account 50-2257.

Any questions regarding this case can be addressed to the undersigned at the telephone number below.

Certificate of Transmission: I hereby certify that this correspondence is being transmitted to the United States Patent and Trademark Office (USPTO) via the USPTO's electronic filing system on March 24, 2009.

Michael Shenker      Mar 24, 2009  
Attorney for Applicant(s)      Date of Signature

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